

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**DONNA K. SOUTTER and
TONY LEE WEBB,
For themselves and on behalf of all
similarly situated individuals.**

Plaintiff,

v.

CIVIL ACTION NO. 3:10CV00107

EQUIFAX INFORMATION SERVICES, LLC.

Defendant.

DECLARATION OF LEONARD A. BENNETT

COME NOW Leonard A. Bennett, and for his declaration, he states as his own personal knowledge:

1. I am one of the attorneys representing the two named Plaintiffs in the above-styled matter. I am competent to testify as stated herein and do so on my own personal knowledge.
2. I have personally been involved with the investigation of this case and have interviewed potential witnesses and reviewed relevant documents. I have also reviewed the pleadings and records in federal litigation outside Virginia regarding the same basic issues as in this case. Further, I have litigated numerous Fair Credit

Reporting Act cases brought by consumers against Equifax and am thus familiar with the identity and location of the primary evidentiary witnesses typically used by Equifax.

3. Both the Donna Soutter and Tony Lee Webb cases arise from the manner in which Equifax obtains and reports civil General District Court judgments in Virginia. In both of the histories at issue, Equifax is in part alleged to have violated the same section of the Fair Credit Reporting Act (FCRA), 15 U.S.C. §1681e(b), which governed the initial accuracy of consumer credit reports.

4. Separately, Mr. Webb has alleged an additional claim for violation of 15 U.S.C. §1681i, which governs the reinvestigation process after a consumer makes a dispute.

5. I have reviewed the PACER dockets for two cases alleging the same basic claim as does Mr. Webb. In both cases, alleged for classes of Pennsylvania and New Jersey consumers respectively, the federal District Courts have certified class actions with such decisions both having survived interlocutory appeal to the Third Circuit. *Chakejian v. Equifax Information Services LLC*, 256 F.R.D. 492 (E.D. Pa. 2009); *Summerfield v. Equifax Information Services LLC*, 264 F.R.D. 133 (D.N.J. 2009).

6. In *Chakejian*, besides the named Plaintiff in the case, the Plaintiff identified the following witnesses for trial, now set for early June:

Evan Hendricks
8321 Tomlinson Avenue
Bethesda, MD 20817

Shawn DeGrace
Equifax Information Services, LLC
1550 Peachtree Street, NW
Atlanta, GA 30309

Alicia Fluellen

Equifax Information Services, LLC
1550 Peachtree Street, NW
Atlanta, GA 30309

Vicki Banks
Equifax Information Services, LLC
1550 Peachtree Street, NW
Atlanta, GA 30309

Lewis P. Perling, Esquire King & Spalding
1180 Peachtree Street, NW
Atlanta, GA 30309-3521

Andy W. Klaer
ChoicePoint, Inc.
1100 Alderman Drive
Alpharetta, GA 30005

Mark Johnson or other Corporate Representative
LexisNexis
1900 Northwest Expressway, Suite 1600,
Oklahoma City, Oklahoma 73118

Chakejian v. Equifax Information Services LLC, No. 07-cv-2211, Plaintiff's Pre-Trial Memorandum. I also reviewed Equifax's pretrial disclosures in that case and no additional witnesses were identified beyond those listed by the Plaintiff.

7. In the District Court's decision in *Summerfield v. Equifax Information Services LLC*, the fact witnesses identified by the court were each also identified by the parties in *Chakejian*. 264 F.R.D. 133 (D.N.J. 2009).

8. I have reviewed the publically available records for the judgment that Equifax reported in Mr. Webb's credit reports. The online records from the Virginia Case information website are as attached to Plaintiffs' Memorandum. They show that a judgment was taken against a person also named Tony Webb, but without his middle initial. There are also multiple judgments obtained in the same time frame against a

“Tony A. Webb.” The judgment record attached hereto identifies as the creditor DarMar, LLC and as the creditor’s attorney, Richard Epps.

11. The office of Richard Epps, a Virginia collection attorney is at 605 Lynnhaven Parkway, Virginia Beach, VA 23452..

12. The Virginia State Corporation Commission Clerk’s Information System identifies the principal address of DarMar, LLC also as 605 Lynnhaven Parkway, Virginia Beach, VA 23452 and identifies Darrell Drinkwater, an attorney with the law firm of Richard Epps, as its registered agent. My best guess right now is that DarMar, LLC is a debt buyer.

13. I am aware of at least three witnesses in this District, two of whom are in the Richmond Division. The most important third party witness known to me in Virginia is Ken Mittendorf, the Assistant Director of the Department of Judicial Information Technology for the Executive Secretary of the Supreme Court of Virginia. Mr. Mittendorf is responsible for overseeing and maintaining the electronic records system for Virginia courts, including General District courts such as those for the City of Richmond or the City of Roanoke. He oversaw the previous bulk sales of judgment records. He has knowledge regarding the manner in which those records and others not obtained by bulk delivery could be used to determine which judgments have been satisfied or vacated and which have not. Further, Mr. Mittendorf has knowledge regarding the manner in which the major data collectors communicate with the court systems.

14. Mr. Mittendorf’s office is located in Richmond Virginia. In fact, the Office of the Executive Secretary of the Supreme Court of Virginia is located at 100

North Ninth Street, Richmond, Virginia, within several blocks of the United States District Courthouse.

15. I have also been in contact with Hal Vaughan, a Richmond area resident who has extensive knowledge and experience using the online records of the General District Courts in the Richmond area. I presently intend to use Mr. Vaughan as a witness.

16. I have identified Denise Hains, the recently retired clerk for the General District Court for the City of Newport News, who I intend to hire as either an expert witness. She resides in Hampton Roads.

17. I am unaware of even a single witness for either Souter or the Webb claims besides the Plaintiffs who reside in the Western District of Virginia.

18. I have also had an opportunity to review online driving directions for Richmond, Culpeper and Roanoke. Google Maps estimates the distance between Culpeper and Roanoke as 161 miles and the distance between Culpeper and Richmond as only 89 miles.

19. I have also performed a search for airline flight options and prices for travel between Atlanta, where nearly all of Equifax's witnesses reside, and both Richmond plus nearby airports and Roanoke plus nearby airports. I used www.orbitz.com and set the sample travel date for July 15, 2010. On that date Equifax's witnesses would have at most nine flights available to Roanoke and nearby airports – all on Delta – to Roanoke (five priced at \$431 each way), Lewisburg, West Virginia (one priced at \$400 each way), and Lynchburg (three priced at \$433 each way). Alternatively, there would be thirty-one direct flights available to Richmond and nearby airports (excluding Charlottesville) on either Delta or Air Tran. Twelve of these would be to

Richmond International (priced at \$118 each way), nineteen to Hampton Roads airports (priced between \$117 and \$229 each way).

I declare under penalty of perjury that the foregoing is true and correct.

Executed: May 21, 2010

_____ /s/ _____

LEONARD A. BENNETT